

Judge Jones

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

R. ALEXANDER ACOSTA, Secretary of
Labor, United States Department of Labor,

Plaintiff,

v.

LOCAL 286, INTERNATIONAL UNION OF
OPERATING ENGINEERS,

Defendant.

NO. C18-0524-RAJ

**STIPULATION FOR ORDER
STAYING ACTION PENDING
PROSPECTIVE MERGER; ORDER
THEREON**

WHEREAS plaintiff the Secretary of Labor (Secretary) has filed this action against defendant Local 286, International Union of Operating Engineers (Local 286), under Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481–483, alleging violations of the LMRDA in Local 286’s August 9, 2017 election of union officers and seeking an order directing Local 286 to conduct a new election for the offices of president, vice president, treasurer, business manager–financial secretary, recording–corresponding secretary, executive board district representatives (seven), executive board member-at-large, and trustees (three) (hereinafter “the affected offices”) under the Secretary’s supervision; and

1 WHEREAS Local 286 has notified the Secretary of an impending merger between itself and
2 Local 302, International Union of Operating Engineers (Local 302), scheduled to be consummated
3 on or before January 1, 2019; and

4 WHEREAS Local 286 has represented to the Secretary that it is highly unlikely that the
5 merger between the two locals will not occur by the designated date; and

6 WHEREAS based on certain representations made to the Secretary on behalf of the
7 International, Local 302, and Local 286, the Secretary believes that the merger, if consummated as
8 represented, will obviate the need for the Secretary to seek the relief requested in this action; and

9 WHEREAS, in the unlikely event that the merger between Local 302 and Local 286 is not
10 consummated as represented, the Secretary will need to bring the dispute before the Court on a
11 relatively expedited schedule so that it still may obtain meaningful relief from the Court;

12 NOW THEREFORE, the parties, through their respective attorneys of record, do hereby
13 stipulate and agree as follows:

14 1. The Local 286 motion to extend discovery cut-off and trial-related deadlines (Dkt. # 17)
15 shall be withdrawn without prejudice;

16 2. This action shall be stayed until February 1, 2019.

17 3. If a merger between Local 302 and Local 286 occurs effective on or before January 31,
18 2019, Local 286 and its attorneys shall, immediately following the date the merger takes effect,
19 provide a written representation to the Secretary that the following conditions have been met:

20 (a) The merger has been consummated.

21 (b) The affected offices have been entirely extinguished by the merger.

22 (c) The individuals occupying the affected offices will not be serving or functioning as
23 officers within the meaning of 29 U.S.C. § 402(n) in Local 302 or in any newly formed local.

24 4. Local 286 and Local 302 agree to respond immediately to any informal follow-up
25 questions from counsel for the Secretary as necessary to provide assurances that the aforesaid
26 conditions have all been met.

1 5. If the Secretary is satisfied that the conditions have been met, the parties agree that they
2 will enter into a stipulation to dismiss the action without prejudice and with each side bearing their
3 costs of suit and attorney's fees.

4 6. If the merger is not consummated as represented on or before January 31, 2019, the stay
5 may be lifted upon request of the Secretary. Defendant and Local 302 waive all right to object to the
6 Secretary's request under those circumstances except upon grounds that the conditions set forth in
7 paragraph 3 hereof were all fully met.

8 7. If the Court determines upon the request of the Secretary that the stay of the action should
9 be lifted:

10 (a) The lawsuit shall immediately resume from where it presently stands. Defendant shall
11 respond to all outstanding discovery requests within two weeks of the lifting of the stay. In addition,
12 depositions noted as of the date the stay order was entered shall go forward upon rescheduling.
13 Further, the Secretary may conduct additional discovery based on information learned from
14 outstanding discovery requests not yet fully responded to by defendant. Lastly, defendant may
15 propound no additional discovery; and

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(b) The following case schedule shall apply, subject to modification by the Court:

1. Bench trial date: June 17, 2019
2. Deadline to complete discovery: February 28, 2019
3. Dispositive motion cut-off date: March 14, 2019
4. Motions in limine: May 23, 2019
5. Agreed pretrial order: June 1, 2019

SO STIPULATED.

DATED this 11th day of December, 2018.

s/Kristina Detwiler

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SO STIPULATED.

DATED this 11th day of December, 2018.

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Labor

ORDER

The Court, having reviewed the stipulation of the parties, hereby orders as follows:

1. The stipulation of the parties is approved.

2. This action shall be stayed until February 1, 2019, pending the stipulated dismissal of the action by the parties or a request by the Secretary that the stay should be lifted.

3. If the Court determines upon the request of the Secretary that the stay of the action should be lifted, and the action should proceed, the following case schedule shall apply in lieu of that set forth in the Court's scheduling order of June 20, 2018 (Dkt. # 16), unless modified by the Court:

1. Bench trial date: June 17, 2019

2. Deadline to complete discovery: February 28, 2019

3. Dispositive motion cut-off date: March 14, 2019

4. Motions in limine: May 23, 2019

5. Agreed pretrial order: June 1, 2019

DATED this _____, day of December 2018.

RICHARD A. JONES
United States District Judge